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COMMUNICATION

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 96-128; Data Requirements

Dear Ms. Dortch:

As requested by the staff, American Public Communications Commission ("APCC") hereby submits its views on the data requirements that should be imposed on first-switch interexchange carriers ("FIXCs") and switch-based resellers ("SBRs") in the event that the FCC adopts any form of "SBR-pays," or "last-switch," rule. APCC will shortly file another letter addressing certification, audits, and other aspects of a SBR-pays system.

APCC stresses that it has not abandoned or in any way modified its opposition to a SBR-pays rule. APCC continues to believe that a SBR-pays rule is essentially unworkable.¹ In the event that the Commission does adopt such a rule, however, there are a number of requirements that the Commission must impose to limit the abuses, compensation losses, and consequent removal of payphones that would result from a SBR-pays rule.

If the Commission returns to a SBR-pays rule, the payphone service providers' ("PSPs") need for data will increase greatly. All the burden of verifying the accuracy of SBR payments and reconciling SBR calling records with FIXC data on calls routed to

¹ Ironically, the same SBR who is telling this Commission that it is perfectly capable of complying with a SBR-pays rule, has failed to comply with the information disclosure requirements of the current rule. (According to an ex parte, Communigroup provides service as both a FIXC and a SBR, and thus has payment obligations under the current rule as well as the old rule). Compare Communigroup et al. ex parte, filed September 12, 2003 (describing SBRs' compensation payment systems) with Attachment 1 (listing Communigroup as a carrier that failed to provide toll-free number data). The problem of getting carriers such as these to comply with compensation rules will only be magnified and compounded under a SBR-pays rule.

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SBR platforms will fall on the PSPs, not the FIXCs. Further, unlike the FIXCs, who have a business relationship with SBRs and thus have the ability to apply market pressure to extract the data necessary to ensure accurate compensation payments, PSPs have no business relationship with FIXCs or SBRs, and thus no means of inducing either FIXCs or SBRs to provide information unless disclosure is required by regulation.

The record of this proceeding is replete with evidence showing the failure of SBRs to comply with the old SBR-Pays rule, and the inordinate compensation losses and collections costs incurred by PSPs under that rule. Therefore, if the Commission returns to a SBR-Pays rule, it is incumbent on the Commission to prescribe in detail the information disclosures needed to police the compensation system. Those disclosures must be sufficient to enable PSPs to ensure that they have been "fairly compensated for each and every completed . . . call." 47 U.S.C. §276(b)(1)(A).

While the information described below may seem like a large amount of information, it is all information that is routinely generated by FIXCs and SBRs for their own billing and administrative purposes. In an ordinary commercial relationship, this type of information is available to the seller of services. If the seller itself could not gather the information, the seller would require its customers to provide the information. Here, PSPs do not have the information and have no means of using agreements with their "customers," the FIXCs and SBRs, to provide for disclosure of such information. Therefore, the Commission must require by regulation that the information be disclosed. If PSPs are to shoulder all the burden of ensuring the accuracy of SBR payments, then it is critical that they be provided the same type of information that is ordinarily used by carriers for their own billing purposes.

In sum, PSPs require sufficient data disclosure to ensure compliance with a SBR-pays rule. But these data requirements cannot be fairly characterized as extreme under the circumstances. The PSPs did not ask to be subjected to the burden of policing SBR payments. It is the SBRs who seek to return to the chaos of the old rule, and it is FIXCs who seek to shed their current obligations, without providing the data that would enable PSPs to step into the FIXCs' shoes. PSPs must have the tools to protect themselves from the vagaries of the SBRs' known compensation practices. The FIXCs must either step up to the plate or hand off to PSPs the data they need to carry out the task of verifying the accuracy of SBR payments.

I. ACTUAL CALL DETAIL IS CRITICAL UNDER A SBR-PAYS RULE

Qwest's proposal to require FIXCs and SBRs to provide "full call detail records," including the date, time, and duration of each compensable call, is an important step toward satisfying the greatly increased data needs that exist under a SBR-pays rule. See Qwest Ex Parte, filed September 10, 2003, entitled "Qwest Discussion – Docket No. 96-128 – Additional Issues as Updated on September 10, 2003." With full call detail, PSPs can match the actual calls reported by the SBR as completed and uncompleted with data from the FIXC on calls terminated to the SBR's switch, in order to determine where lacunae may exist in a SBR's tracking and payment system. For example, if a SBR's

completed call detail reports show that all calls made to a reseller from a particular payphone or group of payphones were made in the first five days of the month, with no completed calls reported for the last 25 days, then the PSP may legitimately suspect that reseller's call reporting system malfunctioned or was turned off.

Call detail on compensable calls, however, has very limited value unless a PSP also receives detailed information on uncompleted calls.² Only uncompleted call data, showing the number of calls a FIXC terminates to a SBR switch, allow a PSP to systematically compare a reseller's completed call detail with the number, timing and duration of the calls reaching the reseller's switch. This information enables a PSP to determine, for example, whether relatively long-duration calls are being reported as complete. If a PSP finds that many calls identified as uncompleted exceed 60 seconds in duration, then there is cause for concern that the SBR is failing to accurately track completed calls.

Call detail on uncompleted calls as well as completed calls also enables the PSP to resolve apparent discrepancies between the number of calls reported by the FIXC as terminated to the SBR platform and the number of uncompleted calls reported by the SBR. Payphone activity that may be reported by the FIXC as a single call may in fact be resulting in multiple calls originating from the SBR's platform due to a caller dialing "#" after each call.

II. SPECIFIC CALL DETAIL REQUIREMENTS

The amount and type of detail needed by PSPs vary depending on the type of dial-around call. There are two main types of dial-around calls: (1) access code calls and (2) subscriber toll-free calls.

² As APCC explained in its comments, the current rule's data requirements are inadequate even if the "FIXC-pays" rule is retained, because they do not provide information on uncompleted as well as completed calls. *See* Comments of APCC, filed June 23, 2003, at 22-25. Even under the current rule, PSPs are dependent on SBRs to identify to their FIXC suppliers the number of calls ultimately completed to a called party. Without uncompleted call data, for example, PSPs cannot correctly evaluate the data that FIXCs currently provide on compensable (*i.e.*, completed calls) routed to particular 800 numbers. The information currently provided does not enable PSPs to identify cases of possible underreporting of completed calls. For example, it is one thing for a PSP to learn that 100 calls were completed to a called party from its payphones using the number 1-800-PREPAID, if the PSP also knows that 120 calls to that toll-free number were terminated to the SBR's switch in the same period. It is quite another thing for the PSP to be informed that 100 calls were completed to a called party if the PSP is also informed that there were 500 calls terminated to the SBR's switch in the same period. In the latter case, unless there are valid reasons why the SBR in question is likely to have a 20% completion rate, PSPs should legitimately raise questions as to whether the FIXC is paying the full amount of compensation due.

In an access code call, the caller dials a toll-free number (the access code)³ that belongs to a particular carrier that the caller wishes to use for the call. The caller then inputs billing information (e.g., a calling card or prepaid card number, or an indication that the caller wishes to place a "collect" call) and dials the telephone number of the party the caller wishes to reach. After that call is ended and the called party hangs up, the caller may remain connected (e.g., by dialing "#") to the platform in order to dial additional numbers using the same billing number. Thus, for access code calls, there are two or more calls involved – the original call ("Call A") that is dialed from the payphone to reach the carrier's call-processing platform, and the subsequent call or calls ("Call B") dialed in response to prompts received from the platform, in order to reach the intended ultimate destination of the call. PSPs need call detail for both "A" and "B" calls.

The other main type of dial-around call is a subscriber toll-free call, in which the caller dials a toll-free number belonging to the called party, and is connected directly to the called party. For a subscriber toll-free call, there is only one call involved, and the only information needed is the call detail for that one call.

The details needed for each type of call are specified below. As under the current rule, all of the information should be grouped under the particular payphone number, or ANI, from which the calls are dialed, and the particular toll-free numbers dialed.

A. Access Code Calls

In an access code call, as noted above, the caller first reaches a carrier's call processing "platform" (Call A) and then dials a separate call or series of calls (Call B). The call processing platform may be operated by the FIXC, in which case the FIXC will receive answer supervision when the called party answers and no SBR involvement is required, or the platform may be operated by a SBR.

1. Calls For Which the SBR Operates the Platform

When a SBR is involved, and has assumed responsibility for direct payment of compensation to the PSP,⁴ PSPs need data on Call A from both the FIXC and the SBR, and data on Call B from the SBR. In addition, APCC agrees with Qwest that it is critical for the FIXC to make available to PSPs, in each compensation cycle, an updated list of

³ Most, but not all access codes dialed at payphones have the format 8XX-XXX-XXXX. For example, sometimes a caller dials an access code with the format 101XXXX-0, where XXXX is the carrier's CIC.

⁴ If the SBR has not assumed payment responsibility, then Call A should be treated like a subscriber toll-free call. The FIXC would provide only the information described in Section II B. below and the SBR need not provide any information at all.

the toll-free numbers belonging to each of its SBR customers that has taken responsibility for paying compensation, and contact information for each such SBR. *See* Qwest Ex Parte, filed August 28, 2003, entitled "Qwest Discussion," at V.b. and c. ("Qwest Ex Parte"). Even if the Commission retains the FIXC-pays rule, this information should be provided to the PSP for those SBRs for whom the FIXC is not paying compensation for every call terminated to the SBR's platform.

a. Call A

Regarding Call A, in which the caller dials the SBR's platform, information should be provided by both the FIXC and the SBR. It is important for both carriers to provide data on Call A so that the PSP can identify and resolve any inconsistencies between the tracking systems of the FIXC and the SBR.⁵

Regarding Call A, the FIXC should report:

- (1) the telephone number ("ANI") of the payphone from which the call was dialed;
- (2) the toll-free number, or other access code, dialed from the payphone;
- (3) the date that Call A was terminated to the SBR's switch,
- (4) the time of day ("TOD") that Call A was terminated to the SBR's switch;
- (5) the TOD that Call A was ended;
- (6) the duration of Call A ((5) minus (4)); and
- (7) the carrier identification code ("CIC") of the FIXC to which the call was routed

Similarly, regarding Call A, the SBR should report:

- (1) the ANI of the payphone from which the call was dialed;
- (2) the toll-free number, or other access code, dialed from the payphone;
- (3) the date that Call A was terminated to the SBR's switch;
- (4) the TOD that Call A was terminated to the SBR's switch;

⁵ Although some of the FIXCs have claimed great difficulty in reconciling these data sets (*See* AT&T Ex Parte, filed August 7, 2003, entitled "Presentation to the FCC," at 3), if the FIXCs are unable to reconcile them, they should not object to providing the data to PSPs so that the PSPs can reconcile the data.

- (5) the TOD that Call A was ended;
- (6) the duration of Call A ((5) minus (4)); and
- (7) the CIC or other information identifying the FIXC from which the SBR received the call.

It is important to recognize that not all calls completed, or terminated, to a toll-free number associated with a call-processing platform are made for the purpose of completing a long distance call to another party. Calls may be made to SBRs' toll-free numbers for a variety of informational purposes, such as accessing information about one's account, discussing billing issues with the SBR, or obtaining other information that may be offered by the SBR. These types of calls are "complete" and compensable on the same basis as calls made for similar purposes to any other toll-free number. The SBR should treat them as compensable calls, even though there is no Call B, and should provide the information listed under II.B below.

b. Call B

Regarding Call B, the SBR should report:

- (1) the ANI of the payphone from which the call was dialed,
- (2) the toll-free number, or other access code, dialed from the payphone, and the fact that the information reported pertains to Call B,
- (3) the date that Call B was dialed from the SBR platform;
- (4) the TOD that Call B was dialed;
- (5) the TOD that Call B was ended,
- (6) the duration of Call B ((5) minus (4)); and
- (7) whether Call B was completed

As previously noted, there may be multiple "B" calls off a single "A" call. Once at the platform, the caller may make multiple calls by using a feature such as "#" redial. Call detail information must be provided for each Call B.

2. Calls For Which the FIXC Operates the Platform

When the FIXC handles the call alone, the PSP needs somewhat less data because it is not necessary for the PSP to match up data maintained by the FIXC and SBR. The information needed is as follows.

a. Call A

Regarding Call A, the FIXC should provide essentially the same information that it provides for Call A when the caller dials the SBR's platform:

- (1) the ANI of the payphone from which the call was dialed;
- (2) the toll-free number, or other access code, dialed from the payphone;
- (3) the date that Call A was placed;
- (4) the TOD that Call A was terminated to the FIXC platform,
- (5) the TOD that Call A was ended;
- (6) the duration of Call A ((5) minus (4));
- (7) the CIC of the FIXC to which Call A was routed.

Since there is no SBR involved, only this one set of information need be provided regarding Call A

b. Call B

Regarding Call B, the FIXC should report the same type of information that the SBR provides when a SBR is involved.

- (1) the ANI of the payphone from which the call was dialed,
- (2) the toll-free number, or other access code, dialed from the payphone, and the fact that the information reported pertains to Call B;
- (3) the date that Call B was dialed from the FIXC's platform;
- (4) the TOD that Call B was dialed;
- (5) the TOD that Call B was ended,
- (6) the duration of Call B ((5) minus (4)); and
- (7) whether Call B was completed.

Again, as with SBR-processed calls, there may be multiple "B" calls dialed off of a single "A" call. Once the caller reaches the platform, the caller may make multiple calls by using "#" redial or other methods for making multiple calls from the platform. Call detail must be supplied for each Call B

B. Subscriber Toll-Free Calls

For a subscriber toll-free call, only the original toll-free call is dialed; there is no additional call dialed from a call processing "platform." Thus, the only information needed is the call detail for that one call. Further, the FIXC itself receives answer supervision, whether or not a SBR is involved in the call. Therefore, the SBR, if any, should not be involved in the compensation process. For each call from a particular payphone to a particular toll-free number, the FIXC should report:

- (1) the ANI of the payphone from which the call was dialed,
- (2) the toll-free number dialed,
- (3) the date the call was placed;
- (4) the time of day ("TOD") that the FIXC receives the call;
- (5) the TOD that the call was ended;
- (6) the duration of the call ((3) minus (2));
- (7) the CIC used to route the call to the FIXC; and
- (8) whether the call was completed.

III. OTHER DATA REQUIREMENTS


APCC agrees with Qwest that FIXCs should be required to report to the Commission (1) the number of calls for which the carrier paid compensation to PSPs, (2) the number of calls for which the carrier charged its customers a surcharge, and (3) for each of its reseller customers, the number of calls for which the carrier surcharged that reseller. *See* Qwest Ex Parte, Sec III.a

APCC also agrees with Qwest that SBRs should be required to report (1) the number of calls for which the carrier paid compensation to a PSP; (2) for each IXC, the number of calls for which the SBR paid a surcharge to that IXC, and (3) the number of calls for which the SBR charged its customers a surcharge. *Id.*

Finally, APCC agrees with Qwest that, if a FIXC-Pays rule is retained, SBRs should be required to provide call completion data to IXCs in the same quarter in which payment to the PSP is processed. *Id.*, Sec. IV.a. In the last payment cycle, several FIXCs received call completion data from SBRs for four or five prior quarters and deducted it from currently due compensation without advance notice or any opportunity to dispute the accuracy of the data. The result was sudden, massive reductions in compensation (about \$2 million for APCC's clearinghouse customers alone) based on stale information. Especially in light of the slipshod call tracking practices of so many SBRs, there is no valid reason to credit call completion information that is "found" by SBRs

months after it should have been provided. It is grossly unfair to allow FIXCs to "take back" compensation (*i.e.*, deduct an amount from currently due compensation) based on stale call completion data from SBRs. If call completion reports are not provided to a FIXC in the quarter when compensation is due, then all calls terminated by the FIXC to the SBR's platform should be treated as completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich". The signature is fluid and cursive, with the first name "Robert" and last name "Aldrich" clearly distinguishable.

Albert H. Kramer
Robert F. Aldrich

*Attorneys for the American Public
Communications Council*

Enclosure

cc: Chris Libertelli
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ATTACHMENT 1

Carriers That Did Not Provide Toll-Free Number Information With Their Payments to APCC Services, Inc. In The Last Compensation Payment Cycle

Opticom Operator Services
TelAmerica
Capsule Communications
Midcontinent
Choice One Communications
Norlight
United States Advanced Network (Atlantax customer)
GE Capital
South Carolina Net
Communigroup, CGIL
Baysprings
Logix
First Communications
TDL Puerto Rico
Pac West
Eatel Advanced Tel
DDD Calling